

## **500 KAR 3:020. Filing and processing SLPO commissions.**

RELATES TO: KRS 61.300, 61.360, 61.991, 62.010, 62.990

STATUTORY AUTHORITY: KRS 15A.160

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.160 authorizes the secretary of the Justice and Public Safety Cabinet to promulgate administrative regulations in accordance with KRS Chapter 13A and direct proceedings and actions for the administration of all laws and functions which are vested in the cabinet, except laws and functions vested in the Department for Public Advocacy. KRS 61.360 authorizes the Governor or his agent to appoint Special Local Peace Officers. This administrative regulation establishes the procedure for applying for a commission as a Special Local Peace Officer.

Section 1. Qualifications to Apply for Commission as a Special Local Peace Officer. To qualify for a commission as a SLPO, an applicant shall present satisfactory evidence of compliance with the conditions and requirements set forth in KRS 61.360.

Section 2. Application for Commission as a Special Local Peace Officer. Applications from the property owner shall be sent to the cabinet SLPO program administrator and shall comply with the following requirements:

(1) An applicant shall meet all of the requirements of KRS 61.360 before a commission shall be granted. An applicant who qualifies may hold additional commissions for different property locations.

(2) The applicant shall complete two (2) notarized "SLPO Application Candidate Information (SLPO-1)" forms, which shall include the following:

- (a) The name of the property owner;
- (b) The name, address, date of birth, and Social Security number of the applicant and a detailed personal description;
- (c) A certified copy of the applicant's birth certificate;
- (d) Two (2) photographs of the applicant, which shall be:
  - 1. Full face;
  - 2. At least three (3) inches by five (5) inches in size; and
  - 3. Taken within thirty (30) days prior to submission of the application;
- (e) A copy of the applicant's military discharge or Form DD-214, if the applicant is a veteran;
- (f) The signature of the property owner;
- (g) A statement of all arrests and convictions, including traffic offenses committed within the past ten (10) years, violations, misdemeanors, or felonies; and
- (h) The notarized signature of the applicant.

(3) The ten (10) dollar application fee shall be:

- (a) Submitted with the application form;
- (b) Nonrefundable; and
- (c) Submitted by check or money order made payable to the Kentucky State Treasurer.

(4) Submission of any false or misleading information or the withholding of information requested on the application or by the cabinet investigator, may be grounds for rejection without further consideration.

(5) If not on file from a previous application, an applicant shall be fingerprinted at the AFIS Section, Kentucky State Police, 1250 Louisville Road, Frankfort, Kentucky 40601.

(6) The application shall also contain the Authority to Release Information Form (SLPO-4) to allow the release of all necessary information to the SLPO program administrator. It shall be signed by the applicant and notarized or may be witnessed by a cabinet official.

(7) The applicant shall also sign the SLPO Acknowledgment Notice Form (SLPO-5) which indicates that:

(a) He has received, read, and understands:

1. KRS 61.300;

2. KRS 61.360;

3. KRS 61.991;

4. KRS 62.010;

5. KRS 62.990; and

6. The administrative regulations in 500 KAR Chapter 3;

(b) He acknowledges that his authority is limited and restricted under the SLPO Act, cited in paragraph (a) of this subsection; and

(c) He understands and acknowledges that his commission as a SLPO does not give him the right or authority to carry a concealed weapon off the premises of the said property, unless he holds a license to carry a concealed deadly weapon issued pursuant to KRS 237.110.

(8) A Letter of Intent Form (SLPO-3) shall be filed with each application by the property owner giving the name of applicant and the specific private property to be protected. This letter shall accompany the application forms for SLPO initial application or renewals.

(9) The applicant shall arrange for an interview with the SLPO program administrator.

(10) If the application is defective or in conflict with the SLPO Act, cited in subsection (7)(a) of this section or 500 KAR Chapter 3, the application shall be returned to the property owner. An application may be corrected and resubmitted at no additional cost if it is resubmitted within sixty (60) days of the date the applicant is sent notice of the deficiencies by the program administrator.

Section 3. The Grant of the Commission and the Required Oath of Office. A commission for a special local peace officer shall be validated and granted as follows:

(1) If the applicant has successfully satisfied the requirements of the statutes cited in Section 2(7)(a) of this administrative regulation, a commission certificate and a Special Local Peace Officer Recommendation of Background Investigator (SLPO-2) form shall be forwarded by the SLPO program administrator to the secretary for review. After the commission is issued by the secretary, a copy of the commission shall be placed in the officer's file.

(2) If a commission is granted:

(a) The commission, one (1) application, and two (2) County Clerk Oath forms (SLPO-6) shall be forwarded by the cabinet to the property owner.

(b) The appointed applicant shall promptly take the application and the two (2) County Clerk Oath forms to the county clerk in the county where the applicant is to serve and shall take the constitutional oath of office within thirty (30) days after notice of appointment.

(c) The county clerk shall then complete and sign the clerk's attestation on both County Clerk Oath forms and retain the application and one (1) of the County Clerk Oath forms for filing purposes in the county clerk's office.

(d) The applicant shall return the second County Clerk Oath form signed by the clerk to the property owner.

(e) The property owner shall then return the second County Clerk Oath form to the cabinet SLPO program administrator to indicate that the oath was administered and that the application and one (1) of the County Clerk Oath forms are filed with the county clerk.

(f) The property owner shall be allowed thirty (30) days to arrange for the appointed applicant to take the oath of office and return the second County Clerk Oath form to the cabinet SLPO program administrator. If the County Clerk Oath form not returned within thirty (30) days, the commission shall be revoked in accordance with KRS 62.010 and 62.990.

(g) The commission certificate shall be kept by the property owner so long as the officer is employed or until his authority is terminated by action of the property owner or the cabinet secretary.

(3) A SLPO Commission shall be issued for a period of two (2) years, if the officer continues to meet all statutory and regulatory criteria.

(4) After the SLPO officer has taken the constitutional oath of office, the property owner shall issue an identification card which is to be carried by the SLPO officer whenever he is acting under the authority of KRS 61.360. The identification card shall be presented as required by any duly sworn peace officer or cabinet official and is subject to control by the cabinet. If for any reason a SLPO officer is terminated or otherwise relieved of his duties as a SLPO officer by the property owner or the cabinet, he shall immediately return this identification card to the officer's property owner.

(5) A notice shall be forwarded to the property owner concerning any officer whose appointment has been suspended or revoked by the secretary. The property owner shall maintain current files and make renewal applications at least sixty (60) days prior to the commission's expiration date.

(6) The applicant shall not exercise the authority of a SLPO until the property owner has received the commission certificate from the cabinet.

(7) The SLPO commission certificate shall be held by the property owner and shall be available for inspection by the cabinet program administrator or his designee. The commission certificate remains the property of the cabinet and is to be returned upon the officer's authority being withdrawn for any reason.

Section 4. Denial of an Application. (1) If an application for commission as a SLPO is denied, the applicant and property owner may appeal the determination in accordance with KRS Chapter 13B. An appeal shall be filed:

(a) In writing with the secretary; and

(b) Within thirty (30) days of the date of the written notice that the application has been denied.

(2) An applicant who is denied a commission shall not submit another SLPO application for a period of at least one (1) year.

Section 5. Renewals. A Letter of Intent Form (SLPO-3) from the property owner stating a request to renew a commission and two (2) complete signed and notarized SLPO Renewal Application Forms (SLPO-7) for each applicant involved shall be filed with the cabinet program administrator at least sixty (60) days before the expiration date of the existing commission. The applicant for renewal shall undergo a new background investigation to bring his records up-to-date.

Section 6. Records, Reports and Responsibility. Each property owner employing SLPO officers shall keep his files current as to the expiration date on each officer's commission and as follows:

(1) The property owner shall keep the individual officer's commission certificates on file, to be returned to the cabinet upon termination of the officer's employment.

(2) The property owner shall post a copy of 500 KAR Chapter 3 and a copy of KRS 61.360 and 61.990 in a conspicuous location in any office or building that is designated security headquarters for persons operating as SLPO officers.

(3) Complaints or unusual incidents involving SLPO officers shall be handled by the property owner whose private property is being protected by the SLPO officer involved. However, the

property owner shall notify the cabinet SLPO program administrator by direct verbal communication within twenty-four (24) hours of any reported incident involving any act as enumerated in KRS 61.360(1)(c) by any of its SLPO officers. A written report shall be filed with the SLPO program administrator, within thirty (30) days of the original oral report, setting forth the details of the incident and listing any action taken by the property owner. If formal charges are pending, the property owner shall advise the SLPO program administrator as to all specific charges, trial dates, and the final disposition of all charges.

(4) The property owner shall mail or e-mail to the SLPO program administrator by June 30 of each year:

(a) A current list of all active SLPO personnel; and

(b) The number of arrests made or citations issued by the SLPO the previous calendar year.

(5) The property owner shall issue each SLPO officer an identification card upon the individual's appointment. The identification card shall be:

(a) Encased in plastic;

(b) Billfold size 2 1/4 in. x 3 1/2 in.; and

(c) Composed as follows:

1. One (1) side containing the following language: "The holder of this card has been commissioned as a Special Local Peace Officer (SLPO), pursuant to KRS 61.360. As a SLPO, the holder of this card is deemed to be a peace officer within the meaning of KRS 527.020 and may exercise the limited powers of a peace officer granted by KRS 61.360"; and

2. The other side containing a full-faced photograph of the officer with his or her:

a. Name;

b. Identification or notation that the officer has been commissioned a "Special Local Peace Officer";

c. Property owner employing the officer;

d. Badge number, if any; and

e. Signature of the officer's property owner.

(6) The property owner shall be responsible for obtaining and destroying the identification card from any officer whose employment is terminated.

(7) If the bond required by KRS 61.360 is cancelled or revoked, the property owner shall notify the cabinet of this fact and the reason for cancellation or revocation.

Section 7. Violations. A property owner utilizing SLPO's shall be subject to inspection and investigation by the cabinet for possible violations. Violations may result in prosecution and recommendation to the secretary that the commission affected be revoked.

Section 8. Revocation or Suspension of SLPO Commissions. (1) If it is determined by the program administrator that KRS 61.360(1) of the SLPO Act applies to any active SLPO commissioned officer, the program administrator shall notify the secretary who shall revoke or suspend the commission of any special local peace officer, after an administrative hearing conducted in accordance with KRS Chapter 13B, if he determines:

(a) That the commission-holder does not meet, or no longer meets the requirements and conditions for the commission;

(b) That the commission-holder has knowingly falsified an application or portion thereof, or has knowingly made any false or misleading statement of a material fact to the cabinet; or

(c) That the commission-holder has violated any of the Kentucky Revised Statutes or administrative regulations cited in Section 2(7)(a) of this administrative regulation, or order of the secretary.

(2) Upon revocation or suspension the SLPO program administrator shall notify the property

owner involved to return the commission of the SLPO officer involved to the SLPO program administrator for the cabinet. The property owner responsible for the SLPO officer shall forward a letter to the SLPO officer involved stating that his commission has been revoked or suspended and that he shall immediately return the SLPO identification card to the property owner.

(3) The secretary may temporarily suspend the commission of an SLPO prior to holding a hearing pursuant to KRS Chapter 13B if he believes that the safety of the public requires that action. If a commission is temporarily suspended prior to holding a hearing pursuant to KRS Chapter 13B, the secretary shall hold a KRS Chapter 13B hearing not later than thirty (30) days from the date of the temporary suspension unless the SLPO requests an extension for a time certain. If the SLPO requests an extension for a time certain, then the commission shall remain suspended until the conclusion of the hearing.

(4) The program administrator shall notify the county clerk in the officer's county of jurisdiction if a SLPO officer's commission has been surrendered, suspended, or revoked.

#### Section 9. Procedures for Investigating Complaints or Unusual Incidents Involving SLPO Officers.

(1) Complaints or unusual incidents involving SLPO officers shall be handled by the property owner whose private property is being protected by the SLPO officer involved. The property owner shall be responsible for notification to the cabinet of all incidents involving their SLPO personnel as indicated in Section 6 of this administrative regulation.

(2) The cabinet program administrator or other assigned officers may investigate any complaints or unusual incidents involving a SLPO officer if there is reason to believe the provisions of KRS 61.360 or other applicable laws have been violated and an investigation is necessary.

(3) Any investigation conducted by the cabinet shall become part of the official record of the SLPO officer involved.

#### Section 10. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "SLPO Application Candidate Information Form (SLPO-1)", July 1, 2010;
- (b) "Special Local Peace Officer Recommendation of Background Investigator Form (SLPO-2)", May 8, 2008;
- (c) "Letter of Intent Form (SLPO-3)", July 28, 2008;
- (d) "Authority to Release Information Form (SLPO-4)", July 28, 2008;
- (e) "SLPO Acknowledgment Notice Form (SLPO-5)", April 29, 2009;
- (f) "County Clerk Oath" Form (SLPO-6), July 1, 2010; and
- (g) "SLPO Renewal Application Form (SLPO-7)" July 1, 2010.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (13 Ky.R. 453; Am. 627; eff. 9-4-1986; 35 Ky.R. 630; 1186; eff. 12-5-2008; 37 Ky.R. 964; 11-5-2010.)